UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1995/SR.28
16 March 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 28th MEETING

Held at the Palais des Nations, Geneva
on Thursday, 16 February 1995, at 7 p.m.

Chairman:	Mr. MEJIA SOLIS (Vice-Chairman)	(Nicaragua)
later:	Mr. BIN HITAM (Chairman)	(Malaysia)

CONTENTS

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-11172 (E)

CONTENTS (continued)

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued)

In the absence of Mr. Bin Hitam (Malaysia), Mr. Mejia Solis, Vice-Chairman, took the Chair.

The meeting was called to order at 7 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 10) (continued) (E/CN.4/1995/6-E/CN.4/Sub.2/1994/42, E/CN.4/1995/9-E/CN.4/Sub.2/1994/44, E/CN.4/1995/30, 31 and Add.1-4, 32, 33, 34 and Add.1 and Corr.1-2, 35-41, 100, 111 and 133; E/CN.4/1995/NGO/3, 6 and 19; E/CN.4/Sub.2/1994/22, 23 and Add.1, 24 and 33; A/49/484 and Corr.1 and Add.1)

1. Ms. RISHMAWI (International Commission of Jurists) said that the recently released sixth annual report of the ICJ Centre for the Independence of Judges and Lawyers (CIJL), entitled Attacks on Justice, catalogued the cases of 572 jurists in 58 countries who had suffered reprisals for performing their professional duties. In Algeria, militant Islamic groups appeared responsible for the killing of scores of civilians, including 27 judges and lawyers, since 1992. The Government's anti-terrorism laws granted wide powers to the police and established special courts restricting the right to defence and concealing judges' identity. Violence in Colombia, carried out by the armed forces, paramilitary or insurgent groups, had claimed the lives of 32 jurists. The Government's public order courts, which involved secret testimony and concealment of judges' identity, were said to be used against drug-traffickers and insurgents but were in fact often used to judge cases of non-violent social protest. In that connection she welcomed the statement by the Colombian representative to the effect that the Government would review such regulations.

2. Peru's new 1993 Constitution permitted the trial of civilians suspected of "treason" before military courts in which the identities of judges, prosecutors and in some cases even witnesses were not disclosed to the defendant. The terms "treason" and "terrorism" were loosely used and in many cases were applied to the lawyers defending those accused of such charges. While the regular judiciary was highly regarded in Egypt, there was concern about the State Security and Emergency Courts. In response to increased attacks by Islamic groups against civilian and Government targets, hundreds of suspected militants had been brought before military courts composed entirely

of military judges, whose decisions were not subject to appeal. The death of a lawyer in police custody and the beating of a number of other lawyers had intensified friction between the Government and the Egyptian Bar Association.

3. In January 1995, the Government of Equatorial Guinea had suspended the entire judiciary of the country and set up a Commission of Inquiry to verify allegations of corruption. The international human rights lawyer José Dougan Beaca had been arrested, but released as a result of international pressure.

4. In Italy, revelations of pervasive corruption at the highest level of industry and politics had been destabilizing the country since 1992. In 1994 the judge investigating Prime Minister Berlusconi had resigned, stating that he had been subjected to pressure, and on 22 December 1994 Prime Minister Berlusconi had resigned. In France, too, judges investigating sensitive cases of corruption had been subjected to pressure. On a positive note, however, France had amended the composition of its Supreme Council of Justice so as to allow judges to elect their own representatives to it. As the French legal system served as a model for many countries in the world, that development was much welcomed.

5. While Tunisia allowed judges to elect some members of its Supreme Council of Justice, the majority were appointed, and in Morocco, the Supreme Council did not meet regularly. In Malaysia, in at least two recent judicial appointment cases, junior judges had been selected over their more senior colleagues, giving rise to the fear that the appointment process was influenced by political considerations.

6. In Australia, the security of tenure of 26 judges had been prejudiced as a result of the abolishment of the Accident Compensation Tribunal of Victoria and the Industrial Court of South Australia. Security of tenure was also threatened in Kenya through the appointment of foreign judges on short-term contracts.

7. In Indonesia, where judges were supervised jointly by the Minister of Justice and the Supreme Court, the role of the Minister of Justice tended to endanger judicial independence. Judges were considered to be civil servants and required to comply with the rules of the Indonesian Civil Service, that undermined their neutrality.

8. In Nigeria, military decrees granted the Government freedom from accountability, the judicial system had been subjected to constant executive interference and human rights lawyers had been detained for protesting the cancellation of the June 1993 elections. The judiciary, and particularly the Supreme Court, in Chile remained dominated by former dictator Pinochet's appointees, who demonstrated extreme reluctance to hold members of the military responsible for past human rights violations.

9. In Turkey, 4 lawyers had been killed, 19 tortured, 35 detained, 1 attacked and 21 professionally sanctioned since June 1993. Under the state of emergency in 10 predominantly Kurdish provinces, special courts applied broad anti-terrorism provisions to many non-violent actions.

10. Lawyers defending people before the State Security Courts in the area of Diyarbakir seemed to be a special target. In one mass arrest, 16 lawyers had been detained for a three-week period in 1993, charged under the Anti-Terror Law and tortured in custody. In the United States of America, criminal defence lawyers were being sued by the Department of Justice for refusing to reveal the identity of the sources of their declared income to the Internal Revenue Service, which they felt would violate the attorney-client privilege.

11. The foregoing highlighted the significance of United Nations engagement in the protection of judges and lawyers. CIJL welcomed the first report of the United Nations Special Rapporteur on the independence of judges and lawyers, which adequately outlined the legal principles relating to judicial and legal independence and raised high hopes for future progress.

12. Mr. CONEDERA (Pax Romana) said that in Guatemala, despite the people's belief in democratic values, the persistence of impunity, militarization and lack of consideration for their basic needs isolated them from national processes. The peace negotiations and 1994 elections had met with widespread indifference because the time and efforts of Guatemalans were concentrated on the struggle for survival. Poverty affected 85 per cent of the population, working conditions were wretched and the illiteracy rate exceeded 65 per cent. Health care in urban areas was poor and virtually non-existent in rural areas. Public finances were chronically weak, with major deficits in social spending, provision of services and infrastructure.

13. As a consequence of extreme poverty, social violence had become an endemic disease, reflected in street attacks, robberies, and family break-ups, forcing tens of thousands of children and adolescents into the streets. His organization had recorded an average of three murders per day in 1994.

14. Guatemala urgently needed social peace based on economic stability, equal opportunity of participation, particularly by the indigenous population, and an end to impunity. A necessary step in that direction was the ending of the internal armed conflict and a series of political reforms. During the first half of 1994 encouraging progress had been achieved in the peace negotiations between the Government and URNG and with the establishment of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA). Although the parties had unfortunately not met the agreed deadline, active mediation by the United Nations had kept the process alive. He urged the General Assembly to support the proposal of the Under-Secretary-General for Political Affairs and to encourage the Government and URNG and all the sectors of Guatemalan society to do so. The challenges facing Guatemala required a long-term commitment by the international community. The work of the Independent Expert and MINUGUA was complementary and reflected the concern of the international community.

15. During 1994 the Human Rights Office of the Archbishopric had documented various violations of humanitarian law and of the Comprehensive Agreement on Human Rights signed the previous March by the parties to the conflict. There had been attacks by the army against members of the guerrilla as well as attacks by URNG against civilians. Political prisoner status was still not recognized. In addition, the indigenous and peasant population continued to

be subjected to forced military recruitment. In the first half of 1994 his organization had filed 88 habeas corpus applications on behalf of young people, some of them minors, who had been forcibly recruited.

16. The internal armed conflict as well as the impunity enjoyed by the perpetrators of brutal attacks on human life were both sources of violence. The State and its agents were reluctant to dismantle the organizations responsible and covered up for the culprits. Civilian self-defence patrols, which had been provided with weapons by the army, were responsible for numerous violations duly reported to the courts, but on which no action was taken. The pattern of impunity was completed by the failure of law-enforcement agencies to act and to defend those who dispensed justice. Judges and prosecutors had been subjected to death threats, attacks and executions by criminal organizations hiding behind State security bodies. The Office of the Human Rights Procurator had not strengthened its investigatory capacity, and the Government's contempt for some of its decisions undermined its creditability. Neither the election of a new Supreme Court of Justice nor the active role of the Public Prosecutor's Office in criminal matters had led to prompt and satisfactory justice. Rapid progress was not possible for structural reasons, but it had to be acknowledged that there was a lack of will to eliminate impunity. Not even 1 per cent of the 1,877 cases of violence recorded by the Office of the Archbishopric in 1994 had been the subject of police investigations and court decisions. Police repression continued to be the official reaction for dealing with social conflicts and undermining the mediation mechanisms.

17. Slow progress was being made as a result of vigilance and constant pressure on the Guatemalan State, which must nevertheless demonstrate its determination to attack impunity and abide by international human rights instruments. He hoped that the Commission would extend the mandate of the Special Representative on Guatemala.

18. Mr. MAACHOU (Arab Lawyers Union) said that enforced disappearances were the most serious form of violence that could be perpetrated against human beings, and constituted a violation of a series of human rights. The increase in the number of such disappearances since the establishment of the Working Group was a further reason for concern. According to United Nations statistics, there had been 30,000 cases of enforced disappearance, including 10,000 in certain Arab countries, and the number of countries affected had risen from 58 in 1992 to 63 in 1993. In 1993 the Working Group had had before it 5,525 new cases in 30 countries, but those figures did not tell the whole story.

19. The Arab Organization for Human Rights had drawn attention to human rights violations, particularly in the Arab world, and on 5 November 1994 it had organized a seminar on the question in Beirut, at which participants had heard some firsthand and moving testimony. One example was the description given by a Lebanese wife and mother of the abduction of her husband by the Israeli army on 21 May 1994.

20. As the Assistant Secretary-General for Human Rights had stated, enforced disappearances required special attention, not only from the standpoint of the protection of human rights but also that of the protection of organizations

dealing with human rights, which were threatened with the violation of their own rights. One example was the tragic disappearance over one year earlier of a member of the Steering Committee of the Arab Organization for Human Rights. Agreement must therefore be reached on the elaboration of a universal declaration for the protection of those defending human rights - a matter that had been under consideration for eight years. Furthermore, although international machinery in the matter was clearly based on criteria applicable to violations by official bodies or persons acting on their behalf, the latter were not the only ones responsible for enforced disappearances. In establishing new criteria, therefore, account should be taken of the struggles between political and tribal groupings and private interest groups on the one hand, and the conflicts between those groups and Governments, on the other. The need to review those criteria must be recognized, for the noble principles contained in treaties and declarations would remain a dead letter unless they were based on appropriate machinery for reconciling the defence of human rights with respect for national sovereignty.

21. Despite the indivisibility of various human rights and the obvious connection between growth, democracy and human rights, human beings everywhere were being subjected to treatment that constituted a flagrant violation of international human rights law. Legislation in certain countries provided for whipping, amputation and executions, often without a fair trial. Although the Arab world was no exception, it might be wondered how a country in the heart of the Arab world could apply to the occupied territories emergency legislation dating from the British mandate that authorized administrative detention without trial. By way of example, he cited one case referred to the Arab Organization for Human Rights and the Arab Lawyers Union, namely, that of a young Palestinian student from Nablus who had been tortured and was still - after nine months - being detained in Askalon prison.

22. The Arab Lawyers Union supported in principle a draft optional protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. However, thought should be given to the implications of adopting such a protocol and the relationship between the draft protocol, regional instruments and the Committee against Torture, as well as to the comments and proposals submitted by Governments, specialized agencies and NGOs.

23. Mr. BONAMY (International Federation Terre des Hommes) said that the sound administration of justice based on the principles contained in international human rights instruments was a prerequisite not only for the proper functioning of democracy, but also for political stability and social peace. He illustrated his point by referring to the impunity which was enjoyed by those responsible for crimes of a social nature in various Latin American countries and which resulted in the disadvantaged segments of society being considered as potentially dangerous delinquents who could be liquidated without fear of criminal proceedings being instituted.

24. For example, persons on the fringes of Colombian society, and especially street children, were frequently the target of violence and assassinations by "death squads" during so-called social cleansing operations. While the majority of the killings took place in the three main cities of the country, Bogota, Cali and Medellín, social cleansing had also begun in

medium-sized towns. Although statistics were difficult to come by, it was estimated that, between 1988 and 1992, social cleansing had resulted in at least 1,900 victims who were frequently fringe individuals, eliminated because of their social status, and their bodies often bore traces of torture or violence.

25. The death squads behind those crimes had links with the police and in many cases were financed and supported by business interests. The impunity enjoyed by the perpetrators of social crimes was even greater than that in the case of political crimes. According to a report by Human Rights Watch, only 12 of the 2,190 cases in which children had been killed in 1993 had been brought to trial. The rare investigations carried out led at most to the dismissal of the official responsible.

26. The extreme vulnerability of marginalized segments of society, and especially of street children, was a factor that favoured impunity for the perpetrators of such crimes. In addition, street children who were themselves responsible for violence were rarely punished in a manner appropriate for their age.

27. The status of the military was by far the most important factor contributing to impunity in Colombia. The criminal justice system favoured paramilitary groups, and the Government had even taken steps to provide legal protection for groups of the death squad type. Of great concern to his organization was the fact that, in the circumstances, crimes of a social nature were beginning to be regarded as commonplace by a portion of public opinion and were likely to be considered as a necessary evil or even as a possible solution to the problem of extreme poverty and exclusion.

28. At the eighth session of the Commission on the Rights of the Child, the representative of Colombia had stated that the new President of the Republic had emphasized the need for a human rights defence policy, and had asked all officials to ensure the protection of children and the most disadvantaged segments of society. International Federation Terre des Hommes hoped that those encouraging words would rapidly result in action, and therefore recommended that the Commission should appoint a special rapporteur to study the shortcomings of Colombia's legal system and their implications for street children.

29. Ms. SPOHN-TWOMEY (Commission of the Churches on International Affairs of the World Council of Churches) said that her organization was concerned by the fact that the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1995/34) had not covered the United States. To assist the Special Rapporteur, she would provide documented evidence of various kinds of human rights violations in that country.

30. The United States was one of a handful of countries that executed offenders who were under 18 at the time of the crime. It had sentenced more juvenile offenders to death and at present had more juvenile offenders on death row than any other nation in the world. In 1989 the United States Supreme Court had held that the execution of juveniles for crimes committed

at the age of 16 or older was not prohibited by the United States Constitution. She was concerned that that heinous practice prevented the United States from ratifying the Convention on the Rights of the Child.

31. She noted that police brutality had been shown to be the immediate precipitating incident in a significant number of major riots that had occurred in the United States in the twentieth century. The World Council of Churches Eminent Persons Team had documented evidence of excessive force, wrongful death and cruel and degrading treatment against minorities, several examples of which she described. Human Rights Watch and the American Civil Liberties Union had noted that, under existing United States law, the federal Government was powerless to intervene in response to ongoing patterns of police abuse even if such abuse constituted a violation of the United States Constitution or the International Covenant on Civil and Political Rights. United States law should therefore be amended to prevent police abuse at the state and local level and brought into line with United States obligations under the International Covenant on Civil and Political Rights and the Convention against Torture. In addition, although the United States had made the declaration provided for in article 21 of the Convention against Torture, it had failed to do so in respect of article 22, thus preventing the Committee from receiving complaints from individual victims.

32. The Eminent Persons Team had heard substantial testimony concerning Control Units in prisons, namely, special units where prisoners were locked in their cells 23 hours a day, 7 days a week, for years on end, where there was no congregate dining, where visits by loved ones consisted of conversation by telephone through a plexiglass partition, and where prisoners were nevertheless subjected to strip searches after such visits. Control unit prisons were considered by many observers, including Human Rights Watch and the ACLU, to inflict cruel, inhuman and degrading punishment on inmates. Her organization therefore called upon the United States to withdraw its reservation to article 7 of the International Covenant on Civil and Political Rights, which prohibited torture, or cruel, inhuman or degrading treatment or punishment.

33. The International Eminent Persons Team had also been told that immigrants from Mexico, Haiti, China and Central America were subjected to harsh and racially motivated treatment in violation of article 26 of the International Covenant on Civil and Political Rights, and that immigrants and refugees were often held in detention indefinitely.

34. Ms. JAMES (Amnesty International) said that, despite their vital role in the battle to end human rights violations, the thematic mechanisms of the Commission were woefully understaffed, and therefore urged the Commission to ensure that all such mechanisms were provided with sufficient staff to help prepare and carry out a sufficient number of on-site visits.

35. In China, thousands of pro-democracy activists had been arbitrarily detained since the crushing of the 1989 protests and hundreds of political prisoners were being held and tortured in Tibet. Amnesty International also continued to receive reports of the detention as prisoners of conscience and of the ill-treatment of members of religious groups in various parts of China.

In Peru, thousands of men and women had been imprisoned in the past two years under wide-ranging and vague anti-terrorism laws which fell short of international human rights standards. Many had been tortured in an attempt to secure a confession implicating them in the activities of the armed opposition.

36. In Mexico, a continuing pattern of human rights violations affected broad segments of the population, and in particular the underprivileged, including indigenous people and women. Amnesty International was particularly concerned by the pattern of gross human rights violations by State agents in Chiapas, especially in early January 1994. In Afghanistan, thousands of Muslim women, girls and boys had been subjected to torture since the Mujahidin groups had taken power in April 1992. Almost all armed political groups were responsible for mass killings, arbitrary detention and torture. Over 25,000 people had been killed, hundreds of thousands displaced and thousands more had "disappeared"; the majority of those killed had been unarmed civilians. The human rights of all segments of the population were at risk, parents being killed for allowing their daughters to go to school and educated Afghan women accused of violating Islamic law being done away with.

37. Women in the Sudan had regularly suffered at the hands of the Sudanese Government and each faction of the armed opposition. They had been detained without charge or trial, flogged, raped and killed, and women active in banned political parties had been liable to detention without charge or trial.

38. The Commission had recognized the enormity of human rights violations against women in situations such as that in Bosnia and Herzegovina, where women from all backgrounds had been raped in an organized and systematic way, and in Rwanda, where rape, other forms of torture and killing of women were part of the genocide and mass killing. Yet human rights violations against women remained a worldwide scandal, and were sufficiently grave and widespread to warrant the establishment of a thematic mechanism. Moreover, all human rights mechanisms should be encouraged to integrate the human rights of women into their activities. Commission resolution 1994/45 had reiterated important wording contained in the Vienna Declaration and Programme of Action, but the Commission had yet to formulate concrete proposals on how that integration should be achieved. All country and thematic mechanisms should be encouraged to take full acccunt of violations specific to or primarily directed against women, and the Special Rapporteur on violence against women should participate in joint country visits with other mechanisms. On-site visits should always include delegates with expertise in women's issues, and wherever possible female interpreters should be used to facilitate the collection of sensitive testimony from women.

39. There was still a need for better coordination and integration and for comprehensive exchanges of information and expertise between the Commission on Human Rights and the Commission on the Status of Women, and the former should consider carefully how it could contribute to the work plan requested in resolution 38/2 adopted by the Commission on the Status of Women at its last session. In conclusion, she called on all those present to demonstrate their commitment to the human rights of women and the girl-child that would ensure measurable progress in the year of the Fourth United Nations World Conference on Women and beyond.

40. Mr. BAGHISTANI (International Committee on European Security and Cooperation), referring to the treatment of minorities in Iraq, said that he had been arrested in 1975 by the Iraqi security apparatus and subjected to various forms of torture. His wife had been killed after giving birth to their child, and he rarely saw his son, who was living in Germany.

41. Judgements by the revolutionary courts in Iraq were so arbitrary that the mere wearing of a red shirt was considered to be grounds for execution. Hundreds of people, including minors, had been imprisoned since 1975, some of them in secret cells, and collective executions in prisons continued. It was difficult to believe that the head of the Iraqi intelligence system was now representing the United Nations.

42. Even Iraqis abroad were not safe, but were subjected to threats and pressure by Iraqi diplomats. Two days earlier in the very room where the Commission was meeting, an Iraqi diplomat had accused him of having been trained in Israel and having a Jewish wife which, under Iraqi legislation, was tantamount to a death sentence. An attempt had also been made to assassinate him in Germany in 1987; he had suffered 17 wounds and had required an operation.

43. All Iraqis, but in particular the Kurds, continued to be subjected to emotional and psychological torture. He therefore requested the Commission to appoint a fact-finding committee to verify his statement and to keep the human rights situation in Iraq under close scrutiny.

44. Mr. FERNANDEZ (International Federation of Human Rights) said that in 1991 he had been a student at the University of Dili, East Timor, and had participated in the 12 November demonstration that had ended in massacres at the Santa Cruz cemetery. Fleeing from the Indonesian armed forces, he had seen one of his colleagues blown up. After months in hiding from the Indonesian troops who had tortured and abducted many friends and family members who had tried to help him, he had finally been able to reach Indonesia with the help of the International Red Cross.

45. He detailed several other cases of atrocities committed by the Indonesian forces against the East Timorese. The year 1995 marked 20 years since Indonesia had invaded East Timor; only the international community could put an end to the martyrdom of the people of East Timor.

46. Mr. VO VAN AI (International Federation of Human Rights) said that his organization was extremely concerned by the arrests and arbitrary detentions carried out the Socialist Republic of Viet Nam, and in particular the persecution of members of the Unified Buddhist Church of Viet Nam and the arbitrary arrest of many of the organizers of a Buddhist Church aid mission for victims of the floods in the Mekong Delta. It was also distressed by the fate of the political prisoners in Re-education Camp A20 in Phu Yen province, where inhuman detention conditions had been reported in a July 1994 publication by a detainee, Pham Van Thanh. Camp A20 had been evacuated on the day of the visit by the Working Group on arbitrary detention, and its prisoners transferred to another camp in a remote province. The events he had described were in complete contradiction with Viet Nam's human rights commitments, and he asked the Commission to take appropriate action.

47. His organization once again strongly condemned the continuing detention of 11 human rights militants in Syria and the Government's generally repressive policy towards them. Their conditions of detention were a source of concern, and he drew attention to the deteriorating health of their spokesman, who had been detained since 18 December 1991. Those abuses were part of a pattern of violations committed by the courts of special jurisdiction under the state of emergency which had been in force for 32 years. His organization called for the immediate and unconditional release of those militants as well as the legalization of its Syrian affiliate to enable it to work towards the introduction of the rule of law in Syria.

48. Egypt was at present experiencing a particularly acute cycle of violence and counter-violence, and his organization wished to remind the Egyptian Government that emergency legislation and torture, arrests and arbitrary detentions were not an appropriate response to acts of terrorism by armed Islamic groups. An authoritarian State harboured the seeds of fanaticism, and violence engendered violence.

49. He noted that as NGOs played a vital role in combating the deterioration of the civil and political situation in Egypt, it was more necessary than ever to repeal Law No. 32 of 12 February 1964 in order to foster freedom of association, expression and action by the NGOs, which in the present context offered the only means of establishing a dialogue between the executive and society.

50. In Tunisia, the Federation continued to be concerned by constant violations of the right to physical integrity, to a fair trial and to freedom of opinion. Torture and ill-treatment were continuing but those responsible enjoyed impunity since the courts refused to listen to the victims. Those practices had been condemned on numerous occasions by the Federation and by the Human Rights Committee. The commitments of the Tunisian authorities were lacking in credibility and their attempts at persuasion unconvincing.

51. Albanians living in Kosovo continued to be subjected to various forms of torture in police stations and during investigations. The homes of approximately 3,500 families had been searched by the Serbian police who, in many cases, had ill-treated the occupants. Some 3,000 ethnic Albanians had been arrested in 1994; 2,000 had been tortured and at least six had died as a result.

52. Ms. WESCHLER (Human Rights Watch) said that arbitrary detention in China appeared to be on the increase. In 1994 dozens of intellectuals, worker rights activists and dissidents had been rounded up and some held briefly to prevent signs of dissent during visits by foreign dignitaries. Some had been kept in custody without charge or trial for months, others had been sentenced without trial to "re-education through labour" and yet others charged with criminal offences for exercising their rights of freedom of expression and association. Those charged with the vaguely-defined political offence of "counter-revolution" continued to be tried in proceedings that were closed to foreign observers. Beatings, torture and even deaths in detention had continued throughout 1994.

53. In Peru, torture and arbitrary detention had become increasingly common since the introduction in May 1992 of a system of military and civilian "faceless" courts in which individuals accused of terrorism and treason were tried in secret hearings with a 95 per cent conviction rate, often achieved on the basis of extrajudicial confessions under torture.

54. In the United States, Human Rights Watch had been concerned about the widespread sexual abuse and degrading treatment of women inmates in state prisons and had conducted a year-long investigation into allegations of abuse in the prisons of five states by prison staff, particularly male officers. The state-level Departments of Corrections had largely failed to address these allegations and the abusers were rarely subjected to criminal sanctions.

55. In Jamaica, children were victimized in a particularly brutal way in the country's police lockups, where young children were detained in life-threatening conditions, sometimes in the same cells as adults charged with serious crimes. Squalor made the situation particularly inhumane; children were not provided with bedding or allowed to bathe or exercise and had no proper sanitation.

56. Routine violations of prisoners' rights had been found in Japan and a study on the subject would be published in March.

57. Human Rights Watch continued to be concerned that those responsible for bloody prison massacres (Peru in 1986, Brazil in 1992, and Venezuela in 1993) had still not been appropriately punished.

58. The widespread nature of human rights violations in prisons called for decisive action on the part of the human rights community. For several years a working group of the Commission on Human Rights had been striving to establish a global system of prison inspections under the Convention against Torture, but its work had become mired in the efforts of some States to create a system that might actually hamper the prevention of torture and compliance with human rights standards in places of detention. It was of the utmost importance that the basic provisions of the draft optional protocol to the Convention against Torture should contain a clause to the effect that, once a State had ratified the protocol, its prior consent was not needed for an inspection and that no prisoner or place of detention could be excluded from such an inspection.

59. Mr. SAFA (Arab Organization for Human Rights) said that his organization had accorded special attention to the question of missing persons. The follow-up committee to support Lebanese detainees in detention camps in south Lebanon and Israel had obtained information on the situation and suffering of the 300 prisoners in the Al Khiyam camp and the 75 detainees in an Israeli prison where they were held in conditions contrary to international law. They had been kidnapped in Lebanese territory and had had unjust sentences imposed on them, in violation of articles 49 and 76 of the Fourth Geneva Convention. The majority of detainees in the Al Khiyam camp were from the occupied territories and included girls, persons who had been wounded, old people and children, ranging in age from 14 to 65. There were also 20 soldiers from the Lebanese army and a number of workers and peasants who

had refused to pay taxes or let their children serve in militias operating in the interests of Israel, in addition to persons from the national and Islamic Lebanese resistance.

60. Israel, as the occupying power in south Lebanon, supervised the Al Khiyam camp. Israeli intelligence controlled the camp administration and questioned and tortured detainees, using both physical and psychological methods. Detainees received no health care, their food was of poor quality and their families were not allowed to send them food or clothing. Israel had also prevented the International Committee of the Red Cross (ICRC) from entering the camp on fact-finding missions. A number of camp inmates had died, most recently in January 1995, but no attempt had been made to ascertain the causes of death, and many of the prisoners released by the Israelis had suffered permanent physical and psychological harm.

61. The Israeli prison had no parallel; it was a closed establishment, outside any legal framework, where the prisoners were never charged or tried or permitted to appoint lawyers, meet their families or make statements to any legal authority. They received no medical check-ups, were deprived of reading material and were released only to die.

62. The Commission had already called on the Government of Israel to facilitate access for ICRC's humanitarian mission to the prison camps in south Lebanon, but they had remained out of bounds. His organization hoped that the Commission would endeavour to secure the condemnation of the Israeli Government for holding Lebanese prisoners; a mandate for an international fact-finding mission to visit the Al Khiyam camp and to investigate prisoners' deaths; the release of sick persons, minors and girls; the opening of the camp to ICRC and consideration of the agreement announced in January 1995 allowing family visits; the release of prisoners whose sentences had been served; the release of Lebanese hostages in Israeli prisons and the placing of the Al Khiyam camp under international supervision.

63. Ms. BAUER (Article 19: The International Centre against Torture) said that her organization welcomed the second report of the Special Rapporteur on freedom of opinion and expression (E/CN.4/1995/32) stating that the right to freedom of opinion and expression was a core right of the International Covenant on Civil and Political Rights and an essential test right, the enjoyment of which illustrated the degree of enjoyment of all human rights contained in the United Nations Bill of Rights. Article 19 recommended that the Special Rapporteur should request Governments to send him any draft laws likely to affect the mass media, and that he should pay special attention to the use of national security laws by a number of countries to restrict freedom of speech.

64. Article 19 also urged the Special Rapporteur to address its first area of concern, namely, the right to be informed about matters of public interest. It believed that the right to seek and receive information was particularly important in terms of investigations by Governments of past and present human rights violations, to ensure that survivors received a full account of what had happened, of the violations committed and information about those who bore primary responsibility. It was encouraged by the commitment of the Governments of Haiti and South Africa to establish truth commissions to

investigate human rights violations committed under previous administrations and urged them to ensure that their findings and recommendations were published while it also urged the Governments of Malawi and Ethiopia to take similar action.

65. Article 19 was pleased that the Goverrment of Sri Lanka had undertaken to investigate the large number of disappearances in that country since 1988, but remained concerned that the commissions looking into allegations of disappearances were not authorized to investigate cases alleged to have occurred prior to 1988 and that the Government had made no commitment to publish the findings of the commissions. It also urged the Special Rapporteur to request Governments to provide copies of relevant laws on access to information and guidelines governing the mandates of any truth commissions, and to include in his next report an expanded commentary on the right to seek and receive information.

66. Article 19's second area of concern related to the continuing deterioration of relationships between groups in societies and between States, arising from differing interpretations of religious laws and a failure to respect the principles and spirit of article 19 of the Universal Declaration of Human Rights. Under the Universal Declaration, any society must tolerate the expression even of views, beliefs and opinions that might be offensive to some if it was to ensure that all human rights were respected. Her organization did not believe that in Sudan, Bangladesh, Egypt, Iran and Algeria the pronouncement of fatwas, acts of intimidation, or the imprisonment and murder of writers and journalists truly reflected the call of Islam for peaceful coexistence between nations and respect for the human being. It invited the Governments of the 52 States of the Organization of the Islamic Conference to address the question of violations of the right to freedom of opinion and expression and to take all appropriate action to end those abuses against writers, journalists, academics and others.

67. Article 19's third concern related to the use and abuse of the media. Governments must guarantee the independence of State broadcasters so that they could perform their public service functions, including providing accurate and timely information and broadcasting a diversity of viewpoints. Her organization urged the Special Rapporteur to give greater attention to the use of broadcasting by Governments to promote conflict, for example, in Serbia and Croatia and in Rwanda. It invited the Special Rapporteur to work with NGOs concerned with freedom of expression to discuss an appropriate response by the international community to such practices. It believed that the Special Rapporteur could make a significant contribution to the development of an effective early-warning procedure by identifying areas that could imperil freedom of expression and providing the international community with valuable assistance in preventing gross and systematic human rights abuses before they occurred.

68. Mr. THA MAUNG (Society for Threatened Peoples) said that he was speaking on behalf of 3 million oppressed Naga people whose human rights were being grossly violated by the occupying forces of India and Burma. Any problems between India and Nagaland should be resolved through negotiation; the declaration of "presidential rule" - India's state of emergency - was not the entire answer.

69. He drew attention to the deaths of 1,000 civilians, the torture of 50,000 persons and the burning of nearly 7,000 Naga homes between 1992 and 1994. He listed some of the atrocities committed against Naga villages and pointed out that, since the occupation of Nagaland by India in 1954 and Burma in 1962, human rights violations had not ceased. No fact-finding missions had been permitted to visit Nagaland in the previous four decades. States of emergency had been declared by the Government of India at least 10 times and armies had been given the power to crush Naga nationalism and the Naga people's right to self-determination.

70. The states of emergency had resulted in repeated indiscriminate killings, arrests, torture, extrajudicial executions, burning of villages, destruction of crops and the rape and abduction of Nagas of both sexes.

71. The Nagas were not separatists and had not participated in the Indian Union when it was formed in 1950. They had never been subjugated either by India or by Burma at any time previously and the occupation of Nagaland and the brutal attempts to suppress the Naga's right of self-determination by India and Burma were the root causes of countless human rights abuses in Nagaland.

72. The rights set out in the Universal Declaration of Human Rights should be safeguarded even when a state of emergency was declared unilaterally and his organization urged the Commission to condemn Indian oppression in Nagaland on that basis. It was important that organizations which upheld human rights against the forces of injustice should be allowed free access to any situation in the world whenever necessary. Some delegations had spoken in strong terms about the need to counter terrorism, but it should not be forgotten that terrorism was also committed by States under cover of "states of emergency" and that such terrorism should be equally strongly condemned.

73. It was evident that India and Burma were seeking a military solution to the long-standing problem of Nagaland and used "states of emergency" as a means of achieving it. India and Burma still had 200,000 troops, 10,000 troops respectively in Nagaland, and his organization called on the Commission to send a fact-finding mission there.

74. Mr. LIU Qing (International League for Human Rights) said that the People's Republic of China was a typical example of a country where the power of the Government was greater than that of the judicial system, thus making legal guarantees for human rights meaningless.

75. The Chinese Constitution stated that citizens enjoyed freedom of expression, of belief and the press, as well as freedom of association. He cited the recent violations of all of those freedoms, including arrest, harassment and sentencing to periods in labour camps, which required no judicial process. According to Chinese law, citizens could appeal against administrative or legal punishments but it was extremely hard for persons detained for their political beliefs to exercise those rights. He himself had been denied the right of appeal for 18 months following an unjust judicial decision.

76. China had ratified the Convention against Torture and Chinese law stated that prisoners should not be subjected to ill-treatment. In fact, it continued to be common and many political prisoners and prisoners of conscience had even been beaten by other inmates at the instigation of the authorities. Such cases occurred regularly throughout China, and all were violations of Chinese law. It was clear that when human rights were to be protected in countries with poor human rights records, Governments must first be required to abide by the laws which had been passed and to accept human rights standards.

77. Mr. WU Hongda (International League for Human Rights) said that he had been a political prisoner for 19 years in a Laogai - a Chinese forced labour camp. He was currently the director of the Laogai Research Foundation in the United States which was gathering information on the Chinese Government. Forced labour - a gross violation of human rights - and forced thought reform both constituted policies of the Chinese Government.

78. All Chinese prisoners were brainwashed and forced to renounce their political beliefs and religion. They must accept communism and supposedly through hard labour become new socialists. The world had been largely silent on the question of the Chinese Laogai system which was more extensive and more brutal than the Soviet Gulag had ever been. In one Laogai for example, more than 5,000 prisoners were forced to mine and process asbestos, without protection, effectively sentenced to a slow, lingering and painful death.

79. The Chinese Government denied that the Laogai exported products but the facts disproved that assertion and indicated that countries and companies around the world either sold capital goods to the Laogai so that they could produce better quality products or bought the products made by the prisoners.

80. The Chinese Government consistently refused to cooperate with ICRC inquiries. To date it had released only a few data that could never be verified by the international community, and he therefore appealed to the Commission to conduct an international investigation into the matter.

81. Mr. EGUSQUIZA (International Young Catholic Students) said that recent events in connection with enforced and involuntary disappearances in Sierra Leone included frequent abductions by armed groups of civilians, some of whom had subsequently disappeared completely; in the north of the country several towns had been completely or partially destroyed; a teachers' college had been destroyed and several students killed; many students had been uprooted and placed in different institutions, and had lost contact with their families; according to an ICRC report, 300,000 displaced persons were living in various camps in Sierra Leone; and people in areas not controlled by armed groups eked out a precarious existence and were threatened by disease.

82. His organization therefore requested that the mandate of the Working Group on enforced or involuntary disappearances should be extended and that its work should include the alarming situation in Sierra Leone.

83. Mr. CLAY (International Association against Torture) said that in Chile, a country which had returned to democracy in 1990, torture continued to be used as a method of obtaining information from detainees; the Association had

received testimony from 104 people who had been tortured by State agents in various Chilean detention centres between 1990 and 1994. Declarations obtained by torture were accepted as confessions and used at trials. Allegations of torture made to government authorities or the courts had not resulted in a cessation of that cruel practice which was perpetuated by the impunity enjoyed by the perpetrators.

84. His Association was also concerned by the fact that civilians were still tried and sentenced by military courts in Chile; at least 55 persons had been tried in that way in the city of Santiago alone.

85. Women political prisoners in Santiago were experiencing conditions that violated all international norms governing the treatment of detainees and were held in a men's facility without the required separation from the general prison population. The situation was even more serious in the case of several women who had small children with them.

86. The Association once again wished to bring the situation in South Korea to the Commission's attention. It continued to refuse to repatriate to North Korea the political prisoners it had held for some 40 years on the grounds that they refused to renounce their political beliefs. The South Korean Government continued to repress its own citizens through its use of the National Security Law. The Association could only surmise that the Commission's reluctance to bring its full weight to bear on a situation which demanded its intervention was attributable to the influence of the world's super-Power which tacitly supported the South Korean Government's repressive policies.

87. Policies in the United States of America reflected a trend diverging from the recent progress made in the recognition and enforcement of human rights in the administration of justice. The report of the Special Rapporteur on racism concluded that racism played a significant role in the administration of justice in the United States and noted a discrepancy in the number of whites and non-whites arrested and sentenced on drug charges, the latter being several times more numerous.

88. The Association was extremely concerned about the most recent developments inside the United States which had moved the administration of justice inexorably to the right; a classic example was the new Federal Crime Law which had been adopted in September 1994.

89. In anticipation of resistance to inhuman prison conditions more and new repressive legislation had its complement in the development of more sophisticated forms of torture, as exemplified by the new maximum security prison in Florence, Colorado which was a model of sensory deprivation, intended to reduce a prisoner to a subhuman state of total dependence. A considerable number of other States were following that example.

90. As for the death penalty, the ratification by the United States of the International Covenant on Civil and Political Rights had been accompanied by an important reservation - the right to continue executing adolescents of 16 years of age; there were no plans to remove that modern form of torture from the agenda of the United States. The Special Rapporteur on racism had

noted in his report a pattern of evidence indicating racial disparities in charging, sentencing and the imposition of the death penalty, and had concluded that those who murdered whites were more likely to be sentenced to death than those who murdered blacks. The Association would continue to document historical and current instances of gross violations of human rights suffered by some 40 million Africans in the United States and would continue to demand restitution and reparation for them.

91. Ms. TOLEDO (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that the serious nature of the situation with regard to enforced disappearances and torture merited particular attention on account of the impunity attendant on those violations, which was aggravated by the lack of an independent judiciary in many countries, the failure to identify and punish those responsible for disappearances, and the amnesty and other measures granted to the perpetrators of such acts despite the fact that the fate of their victims had never been clarified.

92. Another source of concern were the threats against and attacks on family members of the Associations in Latin America, notably in Colombia and Guatemala.

93. Despite the existence of international instruments, no end to human rights violations was in sight in Colombia, El Salvador, Guatemala or Peru, where death squads and paramilitary groups continued to effect arbitrary detentions leading to inhuman treatment and torture. The Federation wished to commend the humanitarian work of the Working Group on enforced disappearances and considered that a convention on enforced disappearances should be elaborated to supplement the inter-American regional Convention. The Federation also hoped that the Rapporteurs on torture and summary executions and the Working Groups on enforced disappearances and arbitrary detentions would make further visits to Colombia and Peru to observe the alarming situation there as well as to assess the progress that had been made.

94. The Federation also urged countries to adopt the draft optional protocol to the Convention against Torture which would allow a preventive system of periodic visits to places of detention to be set up. Many victims in countries where human rights continued to be violated were tortured or ill-treated before being summarily executed. The Federation hoped that States wishing to prevent such practices would collaborate in elaborating an instrument that would guarantee the dignity of detainees.

95. Mr. HUSSEIN (Iraq), speaking in exercise of the right of reply, said that he regretted that the International Committee on European Security and Cooperation had allowed itself to be used by groups with dubious political motives. The person associated with that Committee who had earlier in the meeting tried to elicit the sympathy of the Commission in order to harm Iraq by defamation had obviously realized that the current campaign against that country had left no other means of hurting it. There were all too many Iraqis, sometimes claiming to be Kurds or Yezidis, who, like him, sold themselves to organizations for private gain. The person concerned claimed to be seeking help for his Jewish wife who was not, in fact, an Iraqi at all. In so doing he had fabricated a totally implausible tale. It was to be hoped that the Commission would not become a forum for foolish allegations.

96. Mrs. SABHARWAL (India), speaking in exercise of the right of reply, said it was regrettable that the representative of the Society for Threatened Peoples had made baseless allegations about India. That was not surprising, however, since he belonged to an organization known as the National Socialist Council of Nagaland (NSCN), which was an illegal armed group committed to overthrowing the democratically-elected Government of Nagaland by armed violence and terror. It had killed nearly 1,000 persons in the north-eastern States of India in the past decade and even members of other Naga tribes which regarded it with repugnance.

97. The Indian State of Nagaland had been created constitutionally in 1963. Successive Governments of Nagaland had been elected by the Nagas from among their own number and 59 out of 66 seats in the State legislature were reserved for Naga tribes alone. The claims of NSCN to speak for the Nagas could easily be seen for what they were in the face of the NSCN's sanguinary and xenophobic record.

The meeting rose at 9.55 p.m.